

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Mireya Rocha, as Special Administrator for
the Estate of Francisco Rocha, deceased,

Plaintiff,

v.

City of Chicago Ryan Sheehan, Star No.
18701, City of Chicago Police Officer
Maciej Prazmowski, Star No. 16860, City
of Chicago Police Officer William
Fashbinder, Star No. 10675, City of
Chicago Police Officer Javier Rangel, Star
No. 17072, City of Chicago Police Officer
Carols Cortes, Star No. 4873, City of
Chicago Police Officer Edward Griffin,
Star No. 3336, City of Chicago Police
Officer Tina Sukalo, Star No. 6402, City of
Chicago Police Officer Roman Godinez,
Star No. 7119, City of Chicago Police
Officer Jason Sollis, Star No. 11022, City
of Chicago Police Officer Martin Ryczek,
Star No. 98, City of Chicago Police Officer
Michael Mealer, Star No. 95, City of
Chicago Police Officer David McNaughton,
Star No. 120, City of Chicago, and as-of-
yet unknown City of Chicago Police
Officers,

Defendants.

No. 15-cv-6303

Judge Andrea R. Wood

FIRST AMENDED COMPLAINT

Now comes Plaintiff, Mireya Rocha, as Special Administrator for the Estate of Francisco Rocha, deceased, by and through its attorneys, Angelini & Angelini, and complaining of Defendants, City of Chicago Police Officer Ryan Sheehan, City of Chicago Police Officer Maciek Prazmowski, City of Chicago Police Officer William Fashbinder, City of Chicago

Police Officer Javier Rangel, City of Chicago Police Officer Carlos Cortes, City of Chicago Police Edward Griffin, City of Chicago Police Officer Tina Sukalo, City of Chicago Police Officer Roman Godinez, City of Chicago Police Officer Jason Sollis, City of Chicago Police Officer Martin Ryczek, City of Chicago Police Officer Michael Mealer, City of Chicago Police Officer David McNaughton, CITY OF CHICAGO, and AS-OF-YET UNKNOWN CITY OF CHICAGO POLICE OFFICERS, states as follows:

Introduction

1. This action is brought under 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiff's rights as secured by the United States Constitution.

Jurisdiction and Venue

2. This Court has jurisdiction of the action under 28 U.S.C. §§ 1331 and 1367.
3. Venue is proper under 28 U.S.C. § 1391(b). On information and belief, all parties reside in this judicial district, and the events giving rise to the claims asserted herein all occurred within the district.

Parties

4. On July 19, 2014, Plaintiff's decedent, Fernando Rocha, was a 41 year old resident of Chicago, Illinois. The Plaintiff was survived by his wife, Mireya Rocha and his three children: Ida Rocha, Francisco Rocha and Giselle Rocha. There are no assets in the Estate of Francisco Rocha other than the instant lawsuit, and Mireay Rocha is duly qualified to act as Special Administrator of the Estate of Francisco Rocha.
5. Chicago Police Officer Ryan Sheehan, City of Chicago Police Officer Maciek Prazmowski, City of Chicago Police Officer William Fashbinder, City of Chicago Police Officer Javier Rangel, City of Chicago Police Officer Carlos Cortes, City of Chicago Police Edward

Griffin, City of Chicago Police Officer Tina Sukalo, City of Chicago Police Officer Roman Godinez, City of Chicago Police Officer Jason Sollis, City of Chicago Police Officer Martin Ryczek, City of Chicago Police Officer Michael Mealer, City of Chicago Police Officer David McNaughton (“Chicago Police Officers”), are or were at all times relevant to the events at issue in this case, officers employed by the City of Chicago.

6. Defendant, as-of-yet unknown City of Chicago Police Officers (“Chicago Police Officers”), are or were at all times relevant to the events at issue in this case, officers employed by the City of Chicago.
7. All of the Defendant Officers were at all times relevant acting under color of law and within the scope of their employment.
8. Defendant City of Chicago is an Illinois Municipal Corporation, and is or was the employer of Defendant Officers at the time of the events in issue.

Factual Allegations

9. On or about July 19, 2014 at approximately 2:00 p.m., Plaintiff’s decedent was engaged in an altercation with one of his friends and his friend’s brother at 4201 S. Richmond, Chicago, Illinois.
10. At around 2:00 p.m., Chicago Police Officers came upon the scene and attempted to subdue the plaintiff’s decedent, Fernando Rocha.
11. Chicago Police Officers witnessed the Plaintiff’s decedent, Francisco Rocha, pleading for help, none of the Defendant Chicago Police Officers came to his aid.
12. As a result of this attack, Plaintiff’s decedent, Francisco Rocha, suffered serious injuries which caused his death. During this attack, Plaintiff’s decedent, Francisco Rocha feared for his life.

Count I – 42 U.S.C. § 1983
Excessive Force

13. Each of the Paragraphs in this Complaint is incorporated as if restated fully herein.
14. As described in the preceding paragraphs, the conduct of the Defendant Chicago Police Officers toward Plaintiff constituted excessive force in violation of the United States Constitution.
15. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.
16. The misconduct described in this Count was undertaken with malice, willfulness and reckless indifference to the Plaintiff's rights.
17. As a result of the above-described wrongful infringement of Plaintiff's decedent's rights, Plaintiff's decedent was caused to expire and his family has suffered losses of both a personal and pecuniary nature, all to their damage.

Count II – 42 U.S.C. § 1983
Failure to Intervene

18. Each Paragraph of this Complaint is incorporated as if restated herein.
19. Defendant Officers had a reasonable opportunity to prevent each other from using excessive force against Plaintiff's decedent had they been so inclined, but they failed to do so.
20. As a result of the Defendant Officers' failure to intervene, Plaintiff's decedent was caused to expire and his family has suffered losses of both a personal and pecuniary nature.

21. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with malice, willfulness and reckless indifference to the rights of others.

**Count III – State Law Claim
Assault and Battery**

22. Each foregoing Paragraph of this Complaint is incorporated as if restated fully herein.

23. As described more fully in the preceding paragraphs, the actions of the Defendant Officers created a reasonable apprehension of imminent harm and constituted offensive physical contact with Plaintiff's decedent, Francisco Rocha.

24. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with malice, willfulness and reckless indifference to the rights of others.

25. As a result of the actions of the Defendant Officers, Plaintiff's sustained physical which ultimately caused his death, and his family has suffered losses of both a personal and pecuniary nature, all to their damage.

**Count IV – State Law Claim
Respondeat Superior**

26. Each Paragraph of this Complaint is incorporated as if restated herein.

27. In committing the acts alleged in the preceding paragraphs, the Defendant Officers were members and agents of the City of Chicago, including its Police Department, acting at all relevant times within the scope of their employment.

28. Defendant City of Chicago is liable as principal for all torts committed by its agents.

**Count V – State Law Claim
Indemnification**

29. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

30. Illinois law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

31. The Defendant Officers are or were employees of the City of Chicago Police Department, for which the City of Chicago is responsible, and acted within the scope of their employment in committing the misconduct described herein.

WHEREFORE, Plaintiff, MIREYA ROCHA, as Special Administrator for the Estate of Francisco Rocha, deceased, respectfully requests that this Court enter judgment in his favor and against Chicago Police Officer Ryan Sheehan, City of Chicago Police Officer Maciek Prazmowski, City of Chicago Police Officer William Fashbinder, City of Chicago Police Officer Javier Rangel, City of Chicago Police Officer Carlos Cortes, City of Chicago Police Officer Edward Griffin, City of Chicago Police Officer Tina Sukalo, City of Chicago Police Officer Roman Godinez, City of Chicago Police Officer Jason Sollis, City of Chicago Police Officer Martin Ryczek, City of Chicago Police Officer Michael Mealer, City of Chicago Police Officer David McNaughton, CITY OF CHICAGO, and AS-OF-YET UNKNOWN CITY OF CHICAGO POLICE OFFICERS, awarding compensatory damages and attorneys' fees, along with punitive damages against the DEFENDANT OFFICERS, as well as any other relief this Court deems just and appropriate.

JURY DEMAND

Plaintiff, Mireya Rocha, as Special Administrator of the Estate of Fernando Rocha, deceased, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

Dated: November 12, 2015

Respectfully Submitted,

/s/ Donald J. Angelini, Jr.
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Counsel for Plaintiff, MIREYA ROCHA.

CERTIFICATE OF SERVICE

I, Donald J. Angelini, Jr., hereby certifies that on November 12, 2015, I electronically transmitted a copy of the foregoing document to the persons at the email addresses listed below:

Dana Pesha and Jill Russell
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Counsel for Individual Officers

Shawn Barnett
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Counsel for City of Chicago

Dated: November 12, 2015

/s/ Donald J. Angelini, Jr.